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WILLIAM J. ROBERTSON.*

Formerly Judge of the Supreme Court of Appeals of Virginia.

On the 5th of July, 1888, a large number of representative lawyers and judges met at the Princess Anne Hotel, on the shore at Virginia Beach, for the purpose of organizing the Virginia State Bar Association.

It was felt that the selection of its first President should be made with great care, for his character was to be the keynote, and was to give tone to the institution which it was proposed to establish. All recognized the fact that whatever might be done afterwards, the crown this first year should be placed upon the brow of the unquestioned head of the profession in the State, and by acclamation William J. Robertson, of Charlottesville, was named as *primus inter pares*, and the fittest representative of our Bench and Bar.

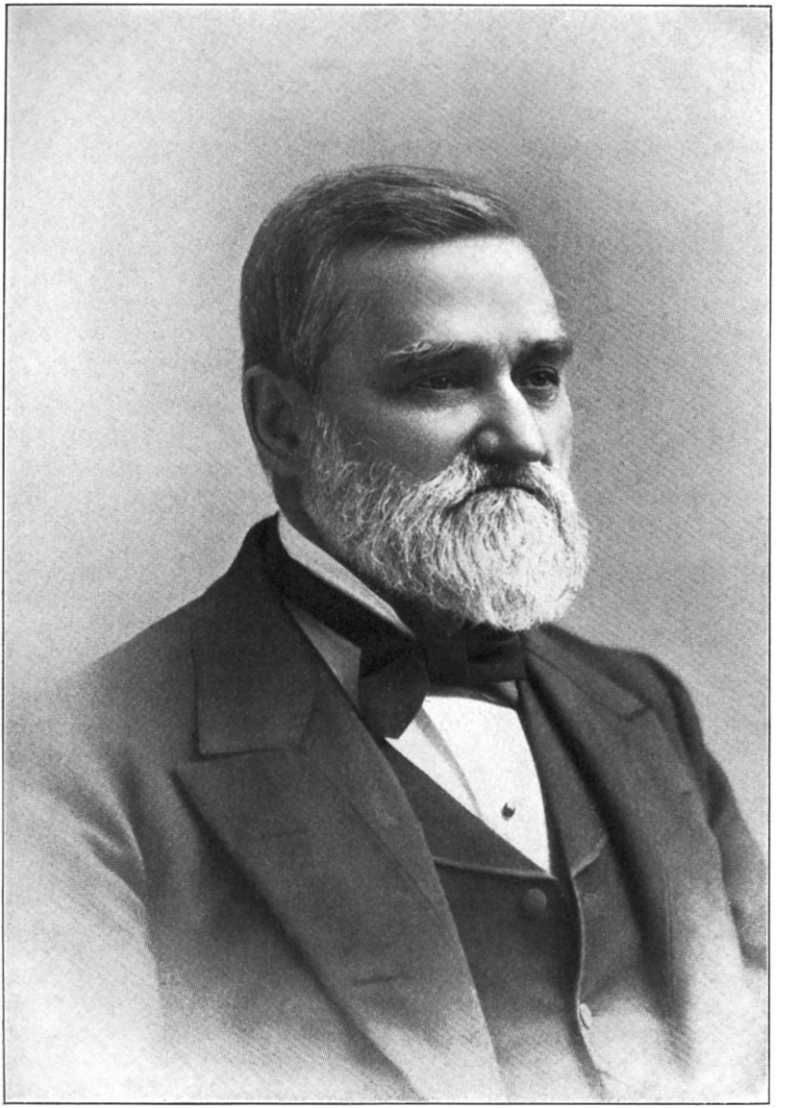
He was not present at the meeting, but was so present in the mind of every person attending that no one else was even suggested, and all felt that in placing him at the head of the organization its status and its capacity for usefulness were at once established.

He accepted the position, and the impress of his character placed the society at once in the front rank of such associations. It is most fitting, therefore, that there should be filed in its archives some lasting memorial of one upon whom such an honor was conferred, and by whom such an honor was so well deserved.

William J. Robertson, who died at his home in Charlottesville, on the 27th day of May, 1898, was born at his father's residence, in Culpeper county, Virginia, near the battlefield of Slaughter's Mountain, on the 30th day of December, 1817.

Both his father and mother were Scotch. His father, John Robertson, was born in the city of Glasgow in 1770, and came to

*A paper read by Charles M. Blackford, Esq., of the Lynchburg Bar, before the Virginia State Bar Association, Old Point, Va., July 5, 1898.



JUDGE WILLIAM J. ROBERTSON,
Formerly of the Supreme Court of Appeals of Virginia.

Virginia in 1791, when he opened a successful classical school for boys in Albemarle county, which school he subsequently moved to Culpeper. In 1815 John Robertson was married to Sarah Brand, the daughter of Joseph Brand, another Scotchman, who, with his family, had settled in the county of Albemarle. Mr. Robertson lived but a short time after his marriage, and died in 1818, when his son William was only a few months old. Upon the death of her husband Mrs. Robertson, with her infant son, left her home in Culpeper and returned to that of her father, in the county of Albemarle.

When her son was nine years old his mother sent him to a school taught by John Lewis, of Spottsylvania, for the purpose of making him a classical scholar. At that time, while his mind was very active and his habits studious, his health was poor, and he was small and delicate in his physical structure. His mother, knowing his capacity, sent him to this academy in the hope that he would become a prominent scholar, but Mr. Lewis, whose experience was large, soon saw that unless he curbed his ambition as a student his physical strength would be exhausted. He determined, therefore, to develop his body, even if his progress in books was less rapid; so he required him to take much out-of-door exercise, and to devote much more time to recreation than to study. The result of this wise course was that his strength increased, his health returned, and he became a vigorous boy, whose physique well supported his active mind. He remained at Mr. Lewis's school for two years, and ever afterwards declared that he owed to this gentleman's sound judgment his bodily vigor and capacity for labor—two qualities which enabled him to make his long life so useful and so distinguished.

While still very young he entered the University of Virginia, where he remained two years, and although not always a regular student, he attested his capacity to learn and his power of application. He did not apply for either of the academic degrees, but graduated in a number of the schools with distinction. After finishing his literary course he devoted himself to teaching for two years, when he returned to the University to prepare himself for the bar, and studied law with such zeal and vigor that he secured the degree of Bachelor of Laws.

On graduating, in 1841, he commenced the practice of law at Louisa Courthouse, but soon moved to the town of Charlottesville, where he resided and continued in the active practice of his profession (except while on the bench) until he retired, a short time before his death.

In his new home he applied himself to his profession with the intelligent energy which had marked his career as a schoolboy, as a college student, and as a teacher, and the same sure success followed as a natural consequence. Business came to him as of right, and he early took stand in the front rank of a bar where he met such competitors as Gen. William F. Gordon, V. W. Southall, E. R. Watson, Shelton F. Leake, Alexander Rives, and George Wythe Randolph.

In 1852 he was elected commonwealth's attorney, and continued to discharge the duties of that office with great ability and fidelity until he was elected by the people to fill the vacancy upon the Supreme bench of the State created by the death of Judge Green B. Samuels, who died on the 5th day of January, 1859. When thus promoted he had been nineteen years a practitioner and he had risen to the front rank, and was an acknowledged leader, not only amongst his contemporaries in his own circuit, but in the State at large, for even that early his well-established powers were called into requisition on one side or the other of every great case in all his section of the State and before the appellate courts. On this broader field he met and contended successfully with such men as John B. Baldwin and Thomas J. Michie, of Staunton; Robert Barton, Sr., James Marshall and Philip Williams, of Winchester; Robert E. Scott, of Fauquier; John M. Patton and William Green, of Richmond; James Garland and C. L. Mosby, of Lynchburg; Sterling Claiborne, of Amherst; Robert Whitehead, of Nelson, and many others of equal capacity, all of whom he survived but Mr. Whitehead.

His competitor for the judgeship was his immediate personal friend, John B. Baldwin, of Staunton. In those days the result of an election was not so quickly known as now, and the day after this election each of the candidates was of the impression that the other was elected, and each wrote to the other a letter of friendly congratulation—a kindly courtesy which was characteristic of both of these gentlemen.

Mr. Robertson before the war was a Democrat of the States-Rights Calhoun wing of the party, and while he would not consent to be a candidate for any political office, kept himself in touch with his party by occasionally taking part in a campaign, when he threw into his speeches the accurate information, earnest logic, and courageous zeal which made him so formidable at the bar.

He was often offered nomination for the legislature, and had he been willing could have been elected to Congress; but no call of that character could tempt him from the charms of his profession. Before

he was elected to the bench of the Supreme Court he had accepted no position at the hands of the people except that of commonwealth's attorney, to which he was elected despite the fact that the Whig majority was overwhelming in ordinary elections in Albemarle county. Although he held no political office and desired none, he was not unmindful of the demands upon him as a citizen to discharge public duties. He was a most valuable director in the Central Railroad Company, the germ of the great Chesapeake & Ohio railway system, with which his name in after years was so constantly associated as its leading counsel. He was, too, a member of the Board of Visitors of the University of Virginia, where, as in all other positions of trust to which he was called, he faithfully discharged his duty; and wherever his State, his county, or his town demanded his service, it was freely given.

Judge Robertson, though elected in May, was not able to take his seat upon the bench until the court met in July at Lewisburg.

The first case decided by him was that of *Hill and Wife* v. *Huston's Ex'or and Others*, 15 Gratt. 350, which was argued by Thomas G. Michie and Peachy R. Grattan, and in which the court held—Daniel, J., dissenting—that a party accepting a legacy coupled with a condition, may bind himself to the performance of the condition although the burden may exceed the benefit, but that to bind a party in such a case it must appear that he elected to accept the legacy and perform the condition with full knowledge of all the facts and circumstances necessary to enable him to make a judicious choice. And it further held that to make an election conclusive, the party must be informed as to the relative values of the things between which he elects.

This first opinion of Judge Robertson is very characteristic of his mode of handling all questions of law submitted to him. He laid down the general principles clearly and with simplicity of expression, reaching the very right of the matter, and then cited every authority which could give the student light upon the question, and established by precedent the validity of his conclusions. A close examination of every decision made by him will show this to be the habit of his mind, and one examining them critically will easily note the style of argument which afterwards, in the many great causes in which he was counsel, gave such power to his logic.

Judge Robertson was a member of the Court of Appeals for six years, four of which covered the period of the war, but during six

months of the term he was only nominally a member. While the war lasted the maxim *inter arma silent leges* applied with peculiar force to our Supreme Court. It was cut off entirely from Lewisburg—one of its two places of session—and Richmond, the other, the seat of the Confederate Government and the very heart of military operations, was not a place for judicial labor or for appellate litigation, and the court had, therefore, little to do.

Judge Robertson was ever noted for his industry, yet during the whole period of his judicial life only twelve causes were assigned him for opinions; consequently, while what he did do as a judge was done ably, his great reputation was not made upon the bench, but upon the broader and higher plane of the bar.

We should not, however, pass by his judicial career without noting the opinion given by him in the two cases which were tried together of *J. R. D. Burroughs and Louis P. Abrahams* v. *Major Thomas G. Peyton*, a conscript officer at Camp Lee, reported in 16 Gratt. 470. Burroughs and Abrahams, under the conscript law of the Confederate States as it then stood, had put in substitutes and been exempted from military service by the prescribed formalities. The necessities of the government subsequently required a repeal of the law permitting substitutes, and these two men were conscribed and turned over to Major Peyton for assignment in the army. They sued out a writ of *habeas corpus*, and the case was thus brought to the attention of the Supreme Court, the government by counsel (George Wythe Randolph) waiving the law suspending the writ of *habeas corpus*.

The court held (Judge Robertson delivering its opinion) that Congress had the constitutional power to raise armies either by contract or coercion, and that a person who had put in a substitute was not thereby entitled to be discharged from service under a call made upon him by virtue of a subsequent law of Congress. It further held that Congress had no power to make a contract with a citizen debarring it from the right to call him into the military service of the country, and that the act authorizing a citizen to put in a substitute did not constitute a contract between him and the government, and that even if it were a contract it did not exempt the person who had furnished the substitute from any call made upon him. Under the principles thus defined the two conscripts were remanded to the custody of the officer and were sent to the army.

Judge Robertson's opinion is one of great interest and ability, evincing that tireless research which he gave to every subject which

came under his consideration. He was a believer in States' rights of the Calhoun creed, and this case presented questions of possible conflict between the State and Federal authorities which must have aroused the keenest apprehensions and caused him to enter into the history of the Federal power in such cases with a care and caution which makes his decision a great state paper and one which will ever be regarded as illuminating the text of the Constitution as to the questions involved in the litigation. The fact that war is now flagrant revives the interest which this decision created at the time it was delivered.

It would make this article too long to analyze this opinion or even to quote liberally from it. It should be read as a noble specimen of judicial reasoning and as an interesting episode in the history of those stirring times. I cannot, however, forego the pleasure of quoting what may be regarded as the opening sentence of the opinion, referring to the question to be decided, where the learned Judge says:

"In deciding this question, considerations of expediency and policy cannot be permitted to control our judgment. We must expound the Constitution according to what appears to be its true meaning, and if it be clear that no power to pass the acts in question has been conferred by it we are bound to declare them void and of no effect, however disastrous may be the consequences of our decision.

"It is said that Congress cannot, under the grant of power to raise armies, place, by force and at their own discretion, the citizens of a State in the ranks of the army of the Confederate States. That the power so to do would be despotic in its nature and far greater and more dangerous than any possessed by the government; subjecting, as it would, the personal freedom of every citizen to arbitrary discretion; and, moreover, that it would be inconsistent with the rights of the States, putting their very existence at the mercy of the Confederate Government. That a mere general grant of the power to raise armies, without specifying the mode in which they are to be raised, cannot be held to confer an authority so repugnant to the spirit of free institutions, the principles on which our Constitution rests, and the rights secured by it.

"The power of coercing the citizen to render military service is indeed a transcendent power in the hands of any government, but so far from being inconsistent with liberty it is essential to its preservation. A nation cannot foresee the dangers so which it may be exposed; it must, therefore, grant to its government a power equal to every possible emergency, and this can only be done by giving to it the control of its whole military strength. The danger that the power may be abused cannot render it proper to withold it, for it is necessary to the national life. The hazard of abuse should be guarded against by so framing the government as to render it unlikely that it will ever use the power oppressively.

"The real question for our consideration, then, is not *whether* the power exists, but *where* it exists. Has it been conferred on the Confederate Government, or is it retained by the States? In its effects upon the individual personally the act of compelling him to render the service is the same, whether it is performed by the

State or by the Confederate Government. The question as to which of them should exercise the authority relates merely to the proper distribution of political power between the two governments. And the idea that first suggests itself is that it ought to be placed in the hands of the one which is charged with the duty of providing for the defence of the country, for a government from whose agency the attainment of any *end* is expected ought to possess the *means* by which it is to be attained."

The breaking down of the Confederate Government and the desolation which followed robbed Judge Robertson, as it did so many others of our profession, of the independence which had been the reward of his professional toil, and the support of his large family gave him great solicitude. The inadequate salary of a judge, even of our highest court, held out little temptation to a man who felt that he would have to rely upon it for his maintenance and who knew so well the mighty powers at his command and his capacity to make them pecuniarily valuable. The despotic military order, therefore, which drove him from the bench was very welcome, as it relieved him from that conscientious restraint which might otherwise have impelled him to complete his term. As soon after the surrender as order was restored and the courts were opened Judge Robertson formed a partnership with Mr. S. V. Southall, of Charlottesville, making one of the strongest combinations in the State. The partnership continued for ten years, and was probably as distinguished as any ever formed in this Commonwealth. Both members were learned lawyers, both intensely diligent, both forcible speakers, and both men of such high character that clients delighted to entrust to their guardianship their largest and their most sacred interests. While the partnership only lasted for ten years, their close personal friendship continued, and both retired from the active work of the profession about the same time.

As soon as it was understood that Judge Robertson had returned to the bar and that clients could secure his services he was overwhelmed with work—work which was not confined to the range of his ordinary circuit, but which year by year was enlarged, not only in the magnitude of the interests involved in the litigation in which he was retained, but in the geographical scope of his professional reputation. This continued until there was no case of vast importance in which the State or any corporation or individual in it was interested that his powers were not called into requisition. No lawyer ever lived in Virginia who did so large a practice of so high an order, whose work was so appreciated, or whose professional services were so richly rewarded. He was the general counsel of the Chesapeake & Ohio Railway Com-

pany and of the Norfolk & Western Railroad Company, and had special retainers in almost all cases in which were involved the largest interests of other railroads and great corporations in the State.

To give a summary of the celebrated causes in which he was counsel would take volumes, and even to list their names would render this paper too long. The reports of the Court of Appeals can be vouched to sustain what has been said, and yet some of his greatest triumphs were at *nisi prius*, and where no permanent record is preserved to the public; but many books might be made from his library shelves by collecting and binding together the many printed briefs and opinions which have been the product of his pen, and which more than all else attest the magnitude of his practice and show how intense his labor, how profound his learning, and how skilful his forensic power. But while even a list of his most important cases would be too long for this paper, no sketch of his life would be complete that did not mention a few at least of those in which his great capacity as a lawyer was most felt and by which his distinction was most assured. Without undertaking to cite them chronologically, a reference at least may be made to a few of them.

He had been at the bar only eight or nine years when his local reputation was extended over the State by his arguments in the Ragland will case, in which were engaged such men as John M. Patton, John S. Fleming, and William Green for the will, and James Lyons, H. A. Wise, General William F. Gordon, and himself against it. The case was tried first at Louisa Courthouse, and then moved to the Circuit Court of Richmond, where it was tried during the session of the Virginia Convention of 1850–'51. Judge Robertson's speech created much enthusiasm in the minds of all who heard it, and by it his reputation was spread far and wide. This case is made famous by many traditions; the fiery eloquence of Wise and Gordon and the learning of Patton and Green are always spoken of as legal wonders, but the speech of Robertson in Richmond probably excited more interest than any in the case.

This case has been made familiar to all who have had the opportunity of hearing the description of it given by that inimitable *raconteur*, John Randolph Tucker. It is much to be regretted that his account of the discussion between General Gordon and Mr. William Green as to Shakespeare's qualities as a lawyer and General Wise's summary of the requisites to testamentary capacity have not been preserved amongst the brightest specimens of professional humor.

Another great argument at *nisi prius* made by Judge Robertson was in the case tried at Warrenton, involving the transactions of that great lawyer and good man, the Hon. Robert E. Scott, as the executor of his father, Judge John Scott. In this case Judge Robertson was upon one side and Mr. John Randolph Tucker upon the other, and so great a lawyer as General Eppa Hunton and so competent a judge as Colonel John S. Mosby are authorities for saying that Judge Robertson's argument was masterly in its logic and excited the admiration of the able bar of Fauquier and of the many lawyers who were present.

Judge Robertson was counsel before the Supreme Court of the United States in what is known as the "Judges Case," well remembered by the bar of the State as testing the right of Judge Rives, of the United States District Court, to cause an indictment against the county judges in his district for failing to place negroes upon the juries. Judge Robertson here fought for and established a great principle, which will protect future generations from judicial tyranny.

He tried many cases before the Supreme Court of the United States, and a distinguished member of that tribunal has declared that few men appeared before it to whom they listened with so much pleasure and profit.

Another case argued by Judge Robertson, both at *nisi prius* and in the Court of Appeals, was that of *Botts* v. *Beckham*. In this case Judge Robertson's argument, in the opinion of Judge Lewis, the distinguished president of the late Court of Appeals, was one of the ablest ever delivered in Virginia.

He was the leading counsel for sustaining the will of Samuel Miller, of Lynchburg, involving the possession of several millions of dollars, and for his great argument received a fee generally believed to be one of the largest ever paid in the State.

He argued the case also of *Gibert* v. *W. C., V. M. & G. S. R. R. Co.*, 33 Gratt. 586, which involved probably more property than any case ever tried in the State, and in which the court sustaining the views for which Judge Robertson contended, establishing precedents now cited in like cases all over the United States.

He was counsel also for the State of Virginia before a commission, of which Judge Black was president, involving the boundary line between the States of Virginia and Maryland. The commission sat in Philadelphia, and the argument was heard by many of the most prominent lawyers of that city, who yielded to Judge Robertson the

palm of distinction amongst his many able associates on both sides in that important controversy.

He also argued the case of *Kirkham* v. *Auditor of Petersburg*, 76 Va. 956, and a number of others tried at the same time and raising the same questions. These causes involved great principles of constitutional liberty, and it is said by those who heard him that Judge Robertson's argument was wonderfully strong and rose to the highest plane of forensic power.

In the cases of *Atwood* v. *S. V. R. R. Co.*, and *Fidelity Ins. &c. Co.* v. *Same*, found respectively in 85 Va. 966, and 86 Va. 1, Judge Robertson was leading counsel for the company. Immense sums of money were involved, and able counsel appeared on both sides as associates and opponents, but victory remained with him, and for his services he received a fee of $40,000, which, it is pleasant to know, he so judiciously invested that it has remained unimpaired during the financial storms of the last decade.

He was counsel also for General Custis Lee, the son of General Robert E. Lee, in the great causes of *United States* v. *Lee* and *Kaufman* v. *Lee*, 106 U. S. 196, known as the "Arlington Cases," famous alike for their historic interest, the great principles established, and the judicial impartiality evinced by the Supreme Court of the United States in their decision.

These are but a few of the infinite number of cases that come crowding upon the mind of any one who contemplates the career of Judge Robertson as a lawyer. The difficulty is not in finding great cases to illustrate his power, but in selecting from the long list those best calculated to emphasize his characteristics.

The magnitude of the amounts and the great principles involved in these cases made them important to the parties and to the profession, but nothing at the time they were tried added more to their interest than the fact that Judge Robertson was counsel in them and that they were illuminated by his arguments.

Mr. Brice, in his sketch of the life of Mr. Gladstone (whose mother, by the way, was a Miss Robertson from Rosshire, Scotland), says that the Scotch "have a strong relish for general principles—they like to set out by ascertaining and defining such principles, and then to pursue a series of logical deductions from them." Adopting this view as correct, we need not inspect Judge Robertson's genealogy to trace the laws of heredity which governed the style of his arguments. He was laborious in the ascertainment of his facts, and being sure of

them (and he spared no pains to be sure) he laid down his premises and the general principles controlling them with a clearness and perspicuity which left no room for doubt as to the groundwork of his logic. His foundation thus clearly and firmly laid, he built the superstructure with a strength and a grace of style which placed it beyond danger of overthrow. After establishing his facts and laying down his general principles, all the fire of his Scotch nature was thrown into the logic by which he deduced his conclusions, and he maintained them by energetically searching for and aptly quoting the best-fitting precedents.

No lawyer was ever thrown with Judge Robertson, either as associate or as an opponent, who does not bear witness to the immensity of the labor which he gave to every case which required attention at his hands. He had a physique which permitted him to work without ceasing, and under his theory of a conscientious discharge of duty to his client and his cause he never ceased to work. His great achievements proved this without the testimony of those of his household, who could tell of his constant study, of his never-resting pen, and of the long hours spent as the light of the midnight oil paled before the approaching dawn. He took nothing for granted, and both in the collation of facts and the citation of precedents he followed St. Paul's maxim by "proving all things and holding fast only that which was good." A narrative by his client of the facts of his case did little more than raise a presumption in favor of the truth of the statement. Clients were often much annoyed by this apparent want of confidence in their veracity, but they learned before the case was over how inaccurate their account and how invaluable his caution.

Soon after the war, when the writer of this sketch was much more inexperienced than now, he retained Judge Robertson as his leader in an important case. Having, as he supposed, mastered the facts, he went to Charlottesville for the purpose of giving them to his leader and conferring as to the law and conduct of the cause. He will never forget the interview. Judge Robertson listened to him as though he had been the most distinguished lawyer in the land, giving the greatest weight to every suggestion as to the deductions from the facts, and the most flattering attention as to his views of the law, but when the statement was finished and the Judge had analyzed it he was amazed, and, but for the kind manner in which it was done, would have been mortified, to find that the facts had been but half secured, and that there was a waste of uncertainties in the statement which were to be

made certain before there could be any assured success. This was Judge Robertson's habit, and to make it good he spared no pains to himself and required vast labor from those who committed their interests to his charge. No fact or incident in the transaction into which he was inquiring was too small to deserve his attention and his care. He stored them away that he might be master of the situation and beyond the possibility of surprise, but when he came to discuss them he seized only the strong facts, ignoring trifles, except when skilfully used as make-weights, and hurled them with such power and such wonderful combination against his opponent that they became irresistible.

He treated precedents in the same way. He searched into and critically studied every decision bearing on the question involved, learning alike from those adverse and from those in his favor. Having thus imbued his mind with all the learning upon the topic he was examining, he selected the leading cases and went through the same process of combining them into logical sequence, which he had already done with the facts, and with the like successful result. He quoted no great string of authorities to testify to his industry at the expense of his judgment, and no court could overlook any case to which he made reference without great danger of committing an error.

Judge Robertson's style was the result of this mode of formulating his arguments. With the power to use tropes and figures, and with an immense vocabulary at his command ready for his tongue at any moment, he lopped off every word and every sentence not requisite to give force to his language and to carry home the thought he wished to express. When he spoke he used no more words than were absolutely necessary to convey his thoughts, and his thoughts can scarcely be said to have been clothed; he only threw around them words enough to develop their grace and strength, and was ever careful to see that they were not hidden in the folds of superfluous language. It is not intended by this to convey the idea that he was wanting in the power of words or without the fullest knowledge of their use. On the contrary, there have been few men who could summon the English tongue to do their bidding with such skill. He could state a proposition or conclusion as a pencil of light, or he could, did he deem it advisable, "ope the sacred source of sympathetic tears" with the hand of a master. Where injustice was to be condemned or a mean act scorned, his words had a scope of denunciation keener than those of John Randolph and more crushing than any utterance made by

Lord Thurlow. He used his native tongue with skill, never wasting words or employing speech to dilute his thoughts. He selected his language as he did his facts and his arguments; from those that were strongest and best fitting his purposes, thus completing the scope of his power as an advocate and making his arguments irresistible.

This strength of expression and eclectic use of words was of course the natural result of his training at the bar and of the honest intent and strong convictions which controlled his purpose, and which found their origin in his Scotch blood. He cultivated this habit of speech further by the character of his reading. He wasted no time on trash, but studied history that he might imbue himself with its philosophy, and read the biography of great men that his own pathway in life might be lit from their experience. He pursued great subjects as told by great authors, and pondered the thoughts and language of those who for ages had guided the pen and tongue of our race. To the study of the Bible he devoted much time, and from it drew expressions and illustrations which brought him in close touch with courts and juries. He knew the writings of Shakespeare almost by heart, and quoted them with a freedom which marked the extent to which he had made them his vernacular. He rejoiced in the wisdom of Bacon and found delight in the fire of Byron's poetry. These were the masters whence he drew his inspiration, and in studying them he so trained his speech that its power was acknowledged of all men.

While he had this power of concentration of thought, and of language, and while, when speaking to a tribunal in whose learning and intelligence he had entire confidence, he confined himself to the terse style of which he was so great a master, he did not hesitate, where the character of the tribunal to which he spoke, in his opinion, made it necessary, to enter into the most minute details and to become almost prolix in the mode in which he presented his views of the question at issue. He held that this was necessary in many cases, and that only by thus varying his expressions and his arguments could he be sure of making a lodgment on the minds of less intelligent auditors.

Much more could be said of the intellectual strength of this great lawyer, but to so short a sketch space is not allotted. It is enough to tell how much he has done to prove how capable he was of doing it well. The reputation of even a great lawyer is not enduring, but what he does lasts long after he is forgotten, for his thoughts and his labors become imbedded in the jurisprudence of the land, and principles are moulded and established by the arguments of counsel which survive

long after his name has become merely a tradition. In time, but a very long time, Judge Robertson, like so many others of Virginia's great lawyers, may be known only to the student of ancient archives, but it is a gladsome thought and a proud reflection to know that his labors will live through long centuries and the principles which he vindicated will be taught for generations yet to come.

It would be unjust to Judge Robertson's memory should this sketch be closed without telling something more than the story of his intellectual greatness. To trace the impress of his high instincts and kind heart upon his fellow-man is a more delicate task, and yet one in which his biographer has the aid of many grateful hearts who with one acclaim tell of his genial love and his gentle kindness. No lawyer of this generation was so universally acknowledged as the leader of the bar of this State, and none ever engaged in fiercer or more numerous forensic contests; yet none was ever more respected by his brethren of the bar and none ever more surely won their good will and affection. If he left scars (and so trenchant a blade as he wielded must have done so) they were soon forgotten, and even his victories excited no jealousy and his triumphs no envy. It is said that the heroes of Greece pointed to the wounds left by Hector's sword as the proudest trophies of their own prowess; so lawyers who contended with Judge Robertson were proud of the fact, even though they suffered under his powerful blows. He had an art of salving a wound, although it was necessary to inflict it. The *suaviter in modo* was never forgotten in the *fortiter in re,* and he made smooth the way of life by its small, sweet courtesies. These are the attributes of the brave heart and the great man, not of the weakling or the coward.

As a cognate virtue to these characteristics and almost a corollary therefrom was Judge Robertson's treatment of his juniors in a cause and of the younger members of the bar generally. In conference he listened to every suggestion from every associate with the utmost deference, and imparted in exchange every possible suggestion in regard to the matter at issue which could be drawn from the resources at his command. He kept back nothing, and both in conference and during the trial was prompt to credit to an associate the most trivial suggestion or any view of the case, even though he might himself have given its first impulse. The writer of this sketch may be forgiven for again referring in illustration of his subject to a personal experience. Before the trial of the great case of *Gibert* v. *W. C., V. M. & G. S. R. R. Co.*, the record in which in the Court of Appeals consisted of

seven or eight hundred pages of a quarto volume, Judge Robertson wrote to him as his junior requesting him to prepare a brief, and, as he was more familiar with the facts and the record, to spare no printer's ink in making it very full. The Judge, with Mr. James Alfred Jones, argued the case orally, and the writer will never forget the grateful pleasure he felt as Judge Robertson in his argument, with this brief in his hand, gave him more than credit for the work he had done. The experience was the same in the case of every one associated with him. When his associates were very young men he not only gave them confidence and encouragement by the manner in which he listened to their views and acknowledged their suggestions, but divided the compensation with a lavish liberality which, if not entirely just, was unjust only to himself.

One who had better opportunities of observing Judge Robertson than any one else not of his blood, who is a keen observer and competent judge of human nature, and who as a young lawyer was much thrown with him, writes as follows:

"Another element in his character that impressed me was his modesty. He treated 'us boys' as equals, and when budding practitioners would consult us about his cases and ask our advice. (God save the mark!) If we had the slightest thing to do with one of his cases he would want to divide (!) the fee with us. He was generous and easy with boyish follies and indiscretions. He has talked to me often about these things, assuming the tone of a kindly older brother or friend, and giving his advice from the standpoint of common sense. But he drew the line at deception and meanness, and was as stern and inexorable as man could be when these were involved. . . . .

"Most men shrink on close acquaintance and the big grow small. Nor am I prone to hero worship. But I do not hesitate to say that Judge Robertson's greatness grew with knowledge. He was the greatest, the purest, the wisest and the kindliest man I ever knew, as he was the most modest."

Another gentleman, whose career at the bar commenced while Judge Robertson was at the zenith of his fame, among other striking expressions used the following:

"I recall the day, over thirty years ago, soon after I had determined to locate in Charlottesville, when I sat in my ill-furnished office brooding over my ignorance of the law, and over my limited acquaintance with the people of the town and county, when your father entered it with kind greetings. He soon made manifest that he had come to see me because I was a stranger and a beginner in the profession. He spoke affectionate words of encouragement and proffered his assistance in any difficulties I might encounter in my business, and invited me to use his books at any time as freely as if they were my own. I often availed myself of his generous offer, and was as often touched by the assiduous care with which he helped me when troubled with legal difficulties. No kind father or

near relative could have been more careful and painstaking in giving advice and help, and I am proud of the fact that even now tears well up whenever I recall his generous aid. I regarded his retiring from active practice at our bar as a great misfortune to it. The high standard which he adopted in his practice, his unfailing courtesy in his office and in the courthouse, and his strict sense of honor were always invaluable object-lessons to the younger members of the bar."

To one familiar with the characteristics of a man of brains, with a brave heart and a noble soul, the description which has been given of Judge Robertson's relations with his fellow-man in social and business intercourse is an apt foreshadowing of his domestic relations. They cannot be portrayed by either pen or tongue, and they are too sacred for us to trespass upon them. His loved ones will be proud of the distinction he won and of his great achievements, but the memory of his tenderness at home and the joyous love which illumined his fireside will last long after the pride has ceased. Where duty demanded, in the fierce battle of life, he could be stern and sometimes cynical, but at home the strong man was a boy again, gleeful and entering into the plans and hopes of the young as if he were one of them. From this phase of his life we have no right to withdraw the veil, and it will not be attempted. To those who sorrow for his vanished hand and yearn for the voice that is stilled we can but extend our deepest sympathy. Time only can heal the wound his death has made, but it must be comfort to know how many share their grief and that his State mourns a son of whom she is justly proud.

The grateful task assigned has now been completed, so far as opportunities and time and space allotted will permit. It is hard, however, in a few pages and a short hour, to outline a long life of distinguished usefulness in which great results were accomplished by his faithful toil. Enough, however, has been said to prove the necessity for saying more and for a more extended biography, which will crystalize into the archives of our profession and the history of the State the life and deeds of so able a lawyer and so great a man.

The Association has met with many heavy losses in the last few years. Both its bench and bar have suffered. Five of its Presidents have been taken away: Robertson, Kean, Tucker, Burks, and Staples, and we may point with pride to their characters, their learning, and their achievements as placing the bar of this generation on a higher plane, if possible, than that occupied by the bar of the past, of the learning and wisdom of which we have been wont to boast. It is well sometimes to halt in the march of life and ponder the characters of

those of our leaders who have fallen in the front rank and whose lives have been such as to excite alike our admiration and our emulation. Men are prone to say and to believe that what is past is best and that the great are dead, but when we contemplate men like these of our generation it is an inspiring thought that this age has not fallen behind and that it keeps equal step with the time of which we are so proud.

It is to rescue from the oblivion which is so apt to be the fate of the great lawyer that this Association has wisely provided for the preparation of such memorials, and thus to preserve their memory is the highest duty we owe those of our dead who have deserved fame and achieved results. Unless a lawyer has won repute in other lines than that of his profession his name is soon forgotten except by those whose investigation brings them across the track of his labors. This fact should excite us sometimes to wander from the paths of our calling and leave some other "footprints upon the sands of time" than those that mark our walk within its lines, and should make the living very careful that record is kept of the work and achievements of those who have been in their day and generation great examples and great ornaments to our profession.

If anything has been done by this sketch to engrave upon the memory of coming generations the power, the wisdom and virtue of William J. Robertson, then all has been accomplished which the writer intended. It is for that purpose and that alone that these pages are written. By thus embalming his memory can the present generation best be served, for the monument thus erected will ever present them an example to follow and a character to emulate.*

*NOTE.—Judge Robertson was twice married—first, on the 16th of August, 1842, at Edgeworth, in the county of Albemarle, the residence of Gen. Wm. F. Gordon, to Hannah Gordon, the daughter of the General. She died in Charlottesville, December 7, 1861. The children of this marriage were Elizabeth Lindsay, Lucy Gordon, Sally Brand, John McB., Maria Gordon (dead), Mary Carter, William Gordon, Nannie Morris (dead), and Reuben Lindsay.

On the 16th of July, 1863, he married at Oaklands, Roanoke county, Va., Alice, the daughter of General Edward Watts and widow of Dr. George Washington Morris, of "The Grove," on the Pon-Pon river, St. Paul's parish, South Carolina. The children of the second marriage were Emma Carr, Alice Watts, Edward Watts, James Breckenridge, and Letitia Sorrel.

Mrs. Robertson's only child by her first marriage was the Hon. George W. Morris, now (1902) judge of the Corporation Court of Charlottesville.